

## **Report 2003-0537 Attachments 6**

Based on the spirit and the results of the discussion held at the meeting of the Sunnyvale Planning Commission regarding a Conditional Use Permit (CUP) for Sunnyvale Community Christian Church to use 435 Indio Way as a place of assembly; and based on information that was not well presented by us or for some other reason misunderstood, Sunnyvale Community Christian Church would like to submit an appeal for a modification of the conditions imposed by the actions of the Commission in approving the permit.

The primary difficulty presented by the Staff to the Commission in granting this permit was the issue of limited parking. In discussing this issue with Staff prior to appearing before the Commission, the idea of changing our plan from one with moveable seating to one with fixed seating was considered.

While that change would have had the positive effect of changing the staff's recommendation from one of denial to one of approval, it would have had the negative effect of limiting our flexibility in the use of the available space.

Because we are moving from a campus of more than three acres in size with almost 90,000 square feet under roof at our disposal to a space of less than 10,000 square feet under roof, flexibility is very important to us. Where we had an assembly area and an "open" area which were separate from each other, we now have a single area which we plan to use sometimes for assembly (with classroom style seating) and sometimes for social gatherings (with round table style seating) or for children's or youth activities, with the space being mostly open.

The motion by Commissioner Chu helped solve this problem and also addressed other issues, and had we thought along those same lines from the beginning we would have presented a different proposal. As it was worded in the end, however, we believe the actual numbers in the resolution can and should be modified while still solving the parking/space issue and while still addressing the population issue.

In his motion, Commissioner Chu picked up the number 169, which is the number of parking spaces in the entire lot for 435 Indio Way, not counting the six allocated to staff, and applied it as if it were a potential number of people. In so doing he suggested a limitation of the population of the building to 150, a number that still left room for parking and a number which is only 50% larger than our current average attendance of approximately 100.

The idea of this kind of arbitrary limitation is one we believe is very good. It addresses the parking issue, it allows us to be good neighbors with our joint tenant and with the other businesses in the neighborhood, and it allows us to use the available space more flexibly and efficiently.

In our opinion it is exactly the right kind of solution, and with some modifications we believe it can be the perfect solution.

---

First, growing by 50% to an average attendance of 150 seems like a fairly difficult task, and in some cases it would be. However, we have moved out of a fixed location into a nomadic existence, meeting in various locations and without permanent staff offices. Those kinds of changes automatically reduce the number of attendees, and we believe that once we move into a permanent facility our average attendance will grow by at least 30% for that reason alone.

It is also our intention to seek new members and attendees from the surrounding neighborhood, and given the number of people who live within walking distance of 435 Indio Way, we believe reaching an average attendance of 150 can happen within two months of moving in.

One way to address this is through offering multiple services, as seen in the proposal by the Great Exchange Church. Prior to making the decision to sell our property, we actually offered multiple services (not because of overcrowding but simply to give options to our members) at our old location. We are willing and able to do so again, and there is more about that below.

However, the number 150 underutilizes both the parking and the available space in the building, especially for our main services and most especially for traditionally highly attended services like Easter and Christmas.

Our proposal is to change that limitation from 150 to 250, based on the following criteria: There are 175 parking spaces in the lot, of which 44 should be allotted to the joint tenant, currently a software company called Alopa. If we do not use any of those spaces at any time, that leaves 131 spaces for our use. Removing six of those spaces for staff, 125 spaces remain. If we utilize those spaces at a ratio of two (2) people per space, we arrive at the number 250.

We would of course like to use the number of three (3) people per space as is allowed by the code for fixed seating, giving us a total of 375 attendees in the building at one time. However we have chosen the more conservative number because we believe it better addresses other issues raised at the meeting of the Commission.

Given that we would not use parking allotted to our joint tenant, and given that the parking available at the site would be more than adequate (according to code), we would then not need an agreement with our neighbors or with our landlord (the building owner).

However, we are willing to agree in writing with our joint tenant and with the landlord that the joint tenant would have full access to their complete allotment of spaces seven days a week and 24 hours a day, and we propose that in those agreements that our particular church be named specifically and that the agreement would not survive our departure from the building. Our purpose in doing so would be to give the Commission flexibility in dealing with any other religious institution which might request to occupy the space if and when we vacate it.

---

In adopting an absolute number to occupy the building at any one time (in addition to the six staff members) of 250, and in keeping with the spirit of the motion which passed the Commission unanimously, we would also like to remove the condition which limited our hours of operation. The purpose of that condition, as proposed by staff, was to accommodate parking. Our proposal obviates the need for such a limitation. If we grew to the point that we began to push the limit on a regular basis, we would institute multiple services in order to keep the number within the limits set.

In practice it is highly unlikely that we would have a population anywhere near that size on any day other than Sunday, or perhaps Saturday evening if we held a Saturday service. (Saturday is not addressed at all in the original conditions.) However it is possible that a Christmas Eve service would fall during the week, or that some other special occasion or special event (a seminar, for instance) would draw a larger crowd.

Finally, because the arbitrary and absolute number of 250 is not dependant on fixed seating, nor is it dependant on open space requirements, we would modify our plans for tenant improvements to the site by removing several proposed walls whose express purpose was to reduce the size of the meeting space.

Therefore the only tenant improvements would be a change in carpet, paint, the removal of six non-permanent non-load bearing walls, and the addition of approximately eight non-permanent non-load bearing walls. All of this "wall work" is basically a reconfiguration of the existing offices and the addition of two new offices/classrooms, and makes it much faster and easier for us to occupy the space.

That leaves us with five conditions, as follows.

1. The Use Permit for the use shall expire if the use is discontinued for a period of one year or more.
2. The Use Permit shall allow for the availability of 44 parking spaces for the neighboring tenant at all times.
3. The maximum number of parishioners using the religious institution at any given time will not exceed 250.
4. Minor changes to the approved plans must be submitted to the Director of Community Development for review and approval. Major changes require the approval of the Planning Commission.
5. An additional fee of \$50 is required for posting of the Notice of Determination with Santa Clara County.

We would like to address two other points which were raised at the meeting of the commission. The first is that of hazardous materials, and as was stated at the meeting the church imposes no more restrictions on any business than the city of Sunnyvale already imposes. It was stated that there was a possibility that businesses might have to change how they report the use of hazardous materials if a church was nearby, and that may be the case although it was not firmly established.



Next door to the proposed location of the church is a health club, and adjacent to that is a restaurant. Across the street and one building removed is another restaurant and next door to that is a medical group. Across Mathilda there are hundreds of apartments. All of these kinds of businesses cater to the population in general and are, we believe, as much of a hindrance to any potential hazardous materials use as the church would be.

In fact we abandoned an earlier and much more economically favorable location in Sunnyvale at the recommendation of city Staff on this very issue, and pursued this property because of the proximity of the restaurants, medical group, and apartments.

The second issue raised (by a building/business owner on Indio Way) was the possibility of the presence of a church reducing the property values in the area. We believe our presence actually enhances the property values, making the area safer because we would tend to have people present mostly in "off" hours when that area is normally not under "citizen watch." Our presence would be a deterrent to vandals, thieves, etc., and reduce the burden on city services. The people who generally attend church services are good citizens who are concerned about their community and their surrounding neighborhood.

In addition, having the property leased enhances the value of all the properties around it. Whether residential or industrial, vacant properties with "for sale" and "for lease" signs in abundance speak in negative terms about the neighborhood. And of course the owner of this particular building (Peery-Arrillaga) owns many buildings in Sunnyvale and the Bay Area, including properties close by this one. If they believed in any way that the presence of our church would devalue this or other of their properties, they would not be likely to work with us.

We look forward to continuing to be an important and integral part of the city of Sunnyvale, and we thank you very much for your consideration of this proposal.

Lewis Greer

Sunnyvale Community Christian Church (dba El Camino Christian Church)

---

## **2003-0537 Attachment 7**



Sunnyvale Community Christian Church, dba El Camino Christian Church, (the church) has entered into a lease agreement for a portion of the building located at 435 Indio Way, Sunnyvale, California, and owned and managed by Peery-Arrillaga of Santa Clara, California (the owner). The largest portion of that same building is currently leased by a software company.

In order for the church to be a good corporate citizen, good tenant, and good neighbor, and to demonstrate the same to all parties involved, the church would, by this letter, like to outline our use of parking spaces in the lot associated with 435 Indio Way.

The city requirement for parking based on the use (industrial) of the portion of the building not occupied by the church is 44 spaces. There are 175 parking spaces in the lot, and the church would be likely to use no more than 20 parking spaces at most times. During times of higher usage (generally Sunday mornings but occasionally on weeknight or weekend evenings, and very rarely on any week day) the church would use many more parking spaces, and on Sunday mornings could potentially fill the entire lot. Generally the times of higher usage for the church would be at times of low usage for the software company, so the likelihood of conflict is extremely low.

However the church understands that any other tenant in the building (the software company or future tenant) is entitled to the use of parking at all times, including times of peak use for the church, and the church therefore agrees to designate (with the cooperation of the current tenant and the owner) 44 spaces in the lot for the full time use of others occupying the building. The church agrees that it will leave those spaces vacant at all times, except by special arrangement as noted below.

The church also understands that on occasion more than 44 spaces may be required by another tenant, and that if so it is most likely to be during a non-peak time for the church, although it could be at any time. The church agrees that another tenant can use any additional spaces it requires without permission, either verbal or written, unless such use would be in conflict with a peak usage time for the church, in which case the church would still grant permission whenever possible. In order to ease that process, the church will inform other tenants of its times of peak usage.

On very rare occasions, for example Easter Sunday and Christmas Sunday, the church may wish to use some of the spaces allotted to another tenant. If so, it will seek permission from the tenant to do so before the event and an agreement will be reached on the number of spaces (if any) which could be made available to the church and the duration of the time they could be made available.

The church warrants that it will abide by this parking arrangement as long as it is a co-tenant at 435 Indio Way and Peery-Arrillaga is the owner, and a copy of this letter shall reside with each of the parties and the original with the city of Sunnyvale as an attachment to the Conditional Use Permit granted to the church by the city.

\_\_\_\_\_  
for the church

\_\_\_\_\_  
title

\_\_\_\_\_  
date

As the current tenant at 435 Indio Way, we hereby acknowledge receipt of this letter from Sunnyvale Community Christian Church and agree that the parking solution they propose is workable for us.

\_\_\_\_\_  
for the tenant

\_\_\_\_\_  
title

\_\_\_\_\_  
date

## **2003-0537 Attachment 8**

Donald Druyanoff  
310 Soquel Way  
Sunnyvale, CA 94085  
Phone# 408-481-3616

October 3, 2003

City of Sunnyvale – Planning Division  
456 W. Olive Avenue  
Sunnyvale, CA 94087

RECEIVED  
OCT 06 2003  
PLANNING DIVISION

Attn: Christine Cannizzo – Project Planner

Re: File #2003 – 0537  
Sunnyvale Community Christian Church  
435 Indio Way

Dear Christine:

As you know I was at the September 22, 2003, Planning Commission meeting and strongly voiced my concerns and objections to a church going into an industrial area. My interest is that I own the building at 310 Soquel Way which is very close to 435 Indio Way. My company is the sole tenant in my building. I bought the building in 1991 and moved the company in February 1992.

Your original report to the Planning Commission had on page 5 the following comments:

As part of the initial study it has been noted that the location of the proposed church is within 500 – 1000 ft. of a research and development facility that utilized hazardous materials in considerable quantities. Several years ago a hazardous materials incident occurred at this facility which required evacuation of surrounding businesses. Although a similar incident can occur again, existing codes governing such facilities minimize the likelihood of any affect on the proposed church.

If the Use Permit for the church is approved in the proposed location, concerns regarding exposure to hazardous materials may limit the type of industrial uses that can be permitted in the vicinity in the future and the expansion of existing industrial uses in the area.

On page 9 of the report it is recommended that the Planning Commission adopt the Negative Declaration and deny the Use Permit.

Attachment 1 also states:

The applicant is proposing the location of a church in an industrial zone. The proposed use is compatible with existing businesses in the area, but it may limit possibilities for new industrial uses to move into the area and for existing industrial uses to expand as a result of risks of exposure to hazardous materials.

---



10/3/03

Page 2

The proposed use is not desirable, and will be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the Zoning District.

The proposed church and associated uses will be materially detrimental to public welfare or injurious to the property in that type of industrial uses that could occupy the neighboring tenant space will be limited because of risks of exposure to hazardous materials. In addition, there would be a parking deficiency on the site if the hours of operation for the neighboring tenant coincide with the church's peak hours of operation.

As a property owner on that block within 500 feet of 435 Indio Way, I feel very strongly that the Planning Commission should have denied the Use permit. I can't believe they did not accept the report's recommendation to deny the Use Permit.

I believe there are high risks of exposure to hazardous materials. It happened before right across the street and it could certainly happen again.

I was asked at the meeting if we have hazardous materials and I said no, but hazardous material have a wide definition. We are in the air conditioning business and do have new and used refrigeration oils and refrigerants as well as containment areas for these chemicals. We use qualified recycling and disposal companies and have permits with the City of Sunnyvale.

If the applicant hadn't appealed I certainly would have.

I did ask for and received some material in regard to hazardous materials from Ron Staricha your Hazardous Materials Project Administrator. I feel strongly that since this is the biggest issue Ron should be at the City Council Meeting on October 21, 2003.

My concerns with having a child care center in an industrial zone with hazardous materials are as follows:

- Potential limitations on industry's ability to expand or change the materials they are using in the future.
  - Additional regulatory overlays which may be imposed on industry after the child care center is established.
  - Limiting the potential to obtain tenants for sites in industrial zones adjacent to child care centers. As a result property values could decline.
  - The ability to obtain liability insurance or having insurance cancelled because of the presence of a child care center.
-

10/3/03

Page 3

Enclosed is a letter from the Santa Clara County Manufacturing Group which clearly states "allowing a non-industrial use in the midst of an industrial zone disrupts business as used, compromising the integrity of the industrial zone at a potentially significant expense to business." It also strongly recommends that cities should prohibit child care in industrial zone where hazardous materials are used with very limited exceptions. There is obviously also great risk to the health and safety of the children.

Also enclosed is a sheet which lists some of the relevant state statutes.

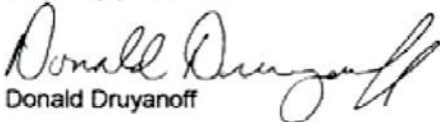
I am also concerned about parking. If this church and day care center are allowed to go forward their parking should be severely restricted and there is no way that 500 people should be allowed on that block. There is absolutely no where to park cars for that many people other than on the other people's property.

I bought my building in Sunnyvale and moved my company here from Cupertino and South San Francisco because I thought Sunnyvale was very business friendly and very pro business. If this Use Permit is approved it will obviously be very anti-business.

I also can't believe that Sunnyvale will risk the health and safety of children. A hazardous material release has occurred on that block very close to 435 Indio Way and it could happen again.

I respectfully request that the City Council follow the recommendation of the Project Planners report and deny the Use Permit.

Very truly yours,

  
Donald Druyanoff

Attachments

---



## ATTACHMENT I

### Buffer Distances for Hazardous Materials Use in Relevant State Statutes

**Health & Safety Code Sec. 25534.1 (Re: RMPP Preparation)**

Requires consideration of *proximity* of facility to schools, residential areas, hospitals, long-term health care facilities, and day care facilities. This Code does not define *proximity*. However, County Official Jim Blamey has indicated a day care center within 1 quarter mile (1,320 feet) would trigger a required notice of an RMPP (Risk Management and Prevention Program) in Santa Clara County.

**Health & Safety Code Sec. 42301.6 (Re: Hazardous Air Emission Permits)**

Requires applicant within 1,000 feet of a school to distribute a public notice of the permit application to parents or guardians of children enrolled in any school (K-12 public or private) within 1 quarter mile and to each address within a radius of 1,000 feet.

**Health & Safety Code Sec. 42301.7 (Re: Threat of Air Contaminant Release)**

Requires air pollution control officer to notify the administering agency having jurisdiction over a school within 1,000 feet if there is a reasonably foreseeable threat of a release. Administrative agency may then require preparation of/or modification of an RMPP. Also provides provisions for air control officer to issue an immediate order to prevent the release or mitigate the release.

**Public Resources Code Sec. 21151.8 (Re: School Siting & Construction)**

Requires identification of facilities within 1 quarter mile which might reasonably be anticipated to emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste and a finding that such a facility does not, and will not, constitute an actual or potential endangerment for approval of an environmental impact report or negative declaration for acquisition or construction of a school site.

**Public Resources Code Sec. 21151.4 (Re: Environmental Impact Reports & Hazardous Materials)**

Requires written notification to, and consultation with, the school district before approval of an environmental impact report or negative declaration for construction or alteration of a facility involving reasonable anticipation of air emission or handling of acutely hazardous materials within 1 quarter mile of a school.

**Health & Safety Code Sec. 25221 & 25232 (Re: Hazardous Waste Disposal Site)**

Defines *hazardous waste property* as a site where a "significant disposal of hazardous waste has occurred", and a *border zone property* as one within 2,000 feet of a hazardous waste property. Prohibits residences, hospitals, schools for persons under 21 years of age, day care, or any permanently occupied human habitation other than those used of industrial purposes on land that is designated a *hazardous waste property* or a *border zone property*.

**County Hazardous Waste Management Plans [Required under AB 2948 (Tanner)]**

Siting criteria for Hazardous Waste Treatment Facilities mandated under the *Tanner Bill* require a 2,000 foot buffer zone between an industrial transfer/storage/treatment facility and any immobile populations, such as schools, hospitals, convalescent homes, prisons, facilities for the mentally ill, etc.

---



**SANTA CLARA COUNTY  
MANUFACTURING GROUP**

Attachment A

April 12, 1994

**RECEIVED**  
APR 14 1994  
CITY MANAGER

GARY BURKE  
President

Tom Lewcock  
City Manager  
City of Sunnyvale  
P.O. Box 3707  
Sunnyvale, CA 94088-3707

**BOARD OF DIRECTORS**

DAVID A. BOSSEN  
President and CEO  
Measure Corporation  
Chairman

PAUL E. FREIMAN  
Chairman and CEO  
Syntex Corporation  
Vice Chairman

ARTHUR L. MOKEY  
President  
EEL Incorporated  
Secretary/Treasurer

GILBERT F. AMELIO  
President and CEO  
National Semiconductor

PHILIP R. BOYCE  
Chairman and CEO  
Pacifi Western Bank

WINSTON H. CHEN  
Chairman of the Board  
Selection Corporation

JOHN A. CONOVER  
Executive Vice President, Regional Administration  
Bank of America

WILLIAM F. CRAVEN  
Vice President & General Manager, Components Group  
Hewlett-Packard Company

LARRY JINKS  
President and Publisher  
San Jose Mercury News

GLENN LARNERD  
V.P. WW Mtg. Operations & Site G.M.  
IBM Corporation

JOHN C. LEWIS  
Chairman of the Board  
Amgen Corporation

ANDREW K. LUDWICK  
President and CEO  
SynGene Communications, Inc.

JOHN N. MUMAHON  
President and CEO  
Lockheed Missiles & Space Co., Inc.

SCOTT MURKIN  
Chairman, President and CEO  
Sun Microsystems, Inc.

GORDON E. MOORE  
Chairman of the Board  
Intel Corporation

PETER C. NELSON  
Region Vice President  
P&G

J. TRACY O'BRIEN  
Chairman and CEO  
Veritas Associates, Inc.

W. J. SANDERS, III  
Chairman and CEO  
Advanced Micro Devices, Inc.

PETER C. WIGLOW  
Vice President & General Manager  
FMC Corporation, Ground Systems Division

Adviser to the Board  
DAVID PACKARD  
Chairman Emeritus  
Hewlett-Packard Company

Working Council Chair  
KATHERINE STROHL  
Manager of Public Affairs  
Lockheed Missiles & Space Co., Inc.

Re: SCCMG Guidelines for Siting Child Care Centers  
in Industrial Zones

Dear Tom:

The Santa Clara County Manufacturing Group (SCCMG) is pleased to provide you with the attached SCCMG Guidelines for Siting Child Care Centers in Industrial Zones.

SCCMG has long supported the concept of providing child care in close proximity to employment centers. There are numerous examples of successful child care centers operating in and near industrial zones throughout Santa Clara County.

However, recent actions by several cities within the County have focused debate on the appropriateness of placing non-industrial uses, such as child care, within existing industrial zones. Specifically, local businesses raised the concern that such actions threaten the continued economic viability of the County's industrial areas.

In response, SCCMG initiated an effort to identify conditions under which child care and industry might coexist without jeopardizing the integrity of industrial zones. SCCMG has developed the attached Guidelines with significant input from local cities, regulatory agencies, industry and the development community.

SCCMG would appreciate if you would distribute these Guidelines to the members of the Council. We hope that you will give these recommendations serious consideration if and when this issue next arises within your city. We hope to meet with you soon to discuss the Guidelines in greater detail and address your comments.

Sincerely,

Gary Burke  
President

Attachments

a:\cty\_mgr2.ape

Santa Clara County Manufacturing Group  
Guidelines for Siting Child Care Centers in Industrial Zones  
April 7, 1994

Background

The Santa Clara County Manufacturing Group (SCCMG) has long supported the concept of providing child care in close proximity to employment centers. There are numerous examples of successful child care centers operating in and near industrial zones throughout Santa Clara County. However, recent actions by several cities within the County have focused debate on the appropriateness of granting conditional use permits and zoning variances to allow non-industrial uses, such as child care, within existing industrial zones. Local industries and developers have raised a number of issues that need to be addressed.

A wide range of local policies on this issue exists within the County. For example, Morgan Hill prohibits child care centers in both its light industrial and general industrial zones. Mountain View has adopted a temporary ordinance prohibiting child care centers and similar sensitive uses in industrial zones or within 1,000 feet of high-hazard facilities. This prohibition will remain in effect while they conduct a study to determine specific locations where such sensitive uses are appropriate. San Jose recommends against locating child care centers within close proximity to facilities that may affect the health and welfare of the children. San Jose encourages locating child care near employment provided that the surrounding businesses and industries would not adversely impact users of the center. Sunnyvale has drafted a policy that recommends allowing child care centers in industrial zones provided adequate consideration is given to protecting the health and welfare of those using the center.

Although these cities deal with protecting children, none addresses the critical issue of maintaining an economically viable industrial zone. In an effort to identify conditions under which child care and industry might coexist without jeopardizing the integrity of industrial zones, SCCMG convened an ad hoc committee with representation from local cities, regulatory agencies, industry and developers. As a result of the committee's discussions, SCCMG has drafted the following statement to define the issues, as well as recommended guidelines for local cities about how to address them.

Issues

Industrial zones were created to give industry a place to conduct business while minimizing the impacts that routine industrial operations typically pose to other members of the community. Allowing a non-industrial use in the midst of an industrial zone disrupts "business as usual," compromising the integrity of the industrial zone at a potentially significant expense to business.

For example, constructing a new or modifying an existing source of industrial air emissions requires compliance with stringent technological and permitting requirements, regardless of the neighborhood. If a "sensitive population" (BAAQMD

---



regulation 2-1-412, K-12 school children) is located within 1,000 feet of that source, however, the public notice requirements are considerably expanded. This will result in permitting delays, added costs, and even missed market opportunities if the delays are protracted. Parents' concerns about perceived health threats posed by the source could necessitate redesigning the project, also at increased expense and added time. Given the additional costs, administrative burdens and uncertainty, many businesses will simply choose not to expand in or relocate to an industrial zone that hosts a child care center.

Many environmental health and safety regulations have similar provisions that require special considerations and actions when a sensitive population is located close to an industrial operation (please see Attachment I). These requirements were designed to address industries moving into non-industrial areas, not the reverse situation we are experiencing in Santa Clara County.

The major focus has been on the risk of locating sensitive populations near facilities working with hazardous materials. (It is our understanding that for many of these materials, there is inconclusive data regarding increased negative impacts on sensitive populations under the routine exposure scenarios of an industrial zone.) We believe and the record supports that California's exceedingly stringent environmental and public health and safety regulations, especially when coupled with federal requirements, protect public health and the environment.

Industrial zones where hazardous materials are used do not provide a risk-free environment, especially in the case of transportation-related accidents where companies have little control. In emergency situations, a child care center located near a spill could pose a significant emergency response problem, given the children's lack of mobility. Industries near child care centers, the child care provider, the city and the local emergency response agencies should all share the responsibility for adequate education about and preparedness for such situations.

These issues are not unique to child care; they are equally applicable to other sensitive uses such as senior or handicapped care, schools, and even churches. Recent opposition to variance requests to allow churches in industrial zones has focused primarily on preserving industrial uses. However, in many cities, churches may, by right, establish school or day care operations without further city council approval or public input, an added reason for concern by surrounding businesses.

When a child care center is allowed in an industrial zone, businesses' concerns go well beyond the costs of compliance. In addition, these businesses must consider and address uncertainty about additional compliance requirements, the potential for increased insurance costs, increased liability and reduced industrial property values.

SCCMG believes that a non-industrial user moving into an industrial zone should bear the burden of mitigating these business impacts, exactly as industry must do in the reverse situation.

---

## Recommendations

### City Guidelines for Permitting of Child Care Centers:

1. Identify locations where child care may be appropriate and should be encouraged, possibly within office, commercial, retail, public facility or multi-family residential zones. Cities should particularly encourage child care on transit corridors that serve a large number of employees, such as sites near rail stations, freeway exits, county expressways and major arterials.
  2. Prohibit child care in industrial zones where hazardous materials are used, with very limited exceptions.
  3. Allow child care as a conditional use in an industrial zone only under the following conditions:
    - a) A company's on-site child care center, when the company owns all facilities within 1,000 feet and would commit to restrictions on the sale and future use of such facilities, or reconsideration of the child care center's permit if surrounding uses change.
    - b) When no facility within 1,000 feet uses hazardous materials, AND there is reasonable assurance there will be no such use. For example, if the center was located at the edge of an industrial area, and the only uses within 1,000 feet were other conditional uses or public facilities such as warehouse stores, municipal maintenance yards, etc.
  4. The city could choose to designate certain industrial zones, or portions thereof, for operations that do not involve hazardous materials use, and allow child care as a conditional use within that restricted area.
  5. Any time a child care center is proposed within 2,000 feet of an industrial zone, all property owners and tenants within 1,000 feet and all Treatment Storage or Disposal Facilities (TSDFs) within 2,000 feet should receive notification, to allow for response by affected businesses.
  6. If a child care center is considered in or adjacent to an industrial area, the following should be required:
    - a) The applicant must demonstrate that the risk to human health can be mitigated to a level of insignificance. This will require a detailed risk analysis, and evacuation and safety plans, all prepared by a qualified consultant. Prior to granting a use permit, the Environmental Impact Report or mitigated negative declaration must be approved by appropriate city/county/state hazardous materials staff. "Shelter in place" proposals must be able to demonstrate adequate protection from the maximum risk exposure potential.
-

b) The applicant and city should sign waivers recognizing that the child care center is moving into an industrial zone where chemicals are being used. The waiver should further recognize that neither the applicant nor the city can prevent the use of those or other chemicals in the future, except as otherwise restricted by laws or ordinances governing the use of chemicals in industrial zones.

c) The city should set up a notification systems for assuring that nearby child care centers are promptly informed in the event of a hazardous materials release

d) The city and child care center should work with local industries to educate users of the center and other interested parties by providing informational materials and holding periodic workshops about commonly used hazardous materials and objective interpretation of risks posed, precautionary measures that can be taken and the emergency response plan for the particular center.

Attachment

---



